

MD
12/28/04

Supp 8M (152)
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Attorney Docket No.: 2803.11US02
1/7/05

Elliott, et al.

Confirmation No.: 5705

Application No.: 10/010,968

Examiner: Gilbert, S.G.

Filed: November 13, 2001

Group Art Unit: 3736

For: AUTOMATED IMPLANTATION SYSTEM FOR RADIOISOTOPE SEEDS

RESPONSE TO NOTICE OF INCOMPLETE DECLARATION

Attn: Licensing & Review
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the notice from Licensing and Review (copy attached) mailed December 9, 2004, Applicants hereby resubmit the required Declaration of Inventors as provided by 35 U.S.C. 25.

Applicants respectfully request the application be allowed to issue in due course.

Respectfully submitted,



Brad Pedersen
Registration No. 32,432

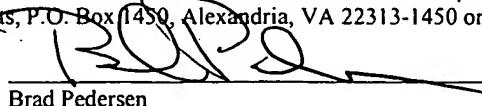
Customer No. 24113
Patterson, Thuente, Skaar & Christensen, P.A.
4800 IDS Center
80 South 8th Street
Minneapolis, Minnesota 55402-2100
Telephone: (612) 349-5774

Please grant any extension of time necessary for entry; charge any fee due to Deposit Account No. 16-0631.

CERTIFICATE OF MAILING

I hereby certify that this document is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

December 22, 2004
Date of Deposit


Brad Pedersen

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For: AUTOMATED IMPLANTATION SYSTEM FOR RADIOISOTOPE SEEDS

DECLARATION OF INVENTORS

Attn: Licensing & Review
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We declare:

1. We made and conceived the invention described and claimed in U.S. Patent Application No. 10/010,968, filed in the United States of America on November 13, 2001, entitled, "AUTOMATED IMPLANTATION SYSTEM FOR RADIOISOTOPE SEEDS."
2. At the time the invention was made and conceived, we were inventors employed by South Bay Medical, LLC, which was subsequently acquired by Mentor Corporation.
3. That the invention is related to the work we were employed to perform and was made within the scope of our employment duties.
4. That the invention was made during working hours and with the use of facilities, equipment, materials, funds, information.

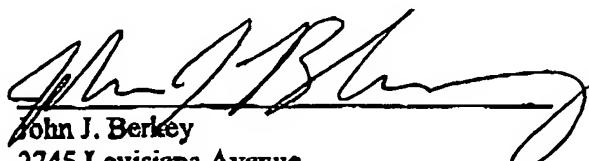
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LICENSING & REVIEW

Application No. 10/010,968

5. That to the best of our knowledge and belief: The invention or discovery was not made or conceived in the course of, or in connection with, or under the terms of any contract, subcontract or arrangement entered into with or for the benefit of the United States Atomic Energy Commission or its successors Energy Research and Development Administration or the Department of Energy.

6. The undersigned inventors declare further that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 11-5-04

Daniel M. Elliott
6200 Sierra Circle
Shorewood, Minnesota 55331Dated: 11-5-04

John J. Berkley
2745 Louisiana Avenue
St. Louis Park, MN 55426

Dated: 12-16-04

George M. Hoedeman
George M. Hoedeman
18310 Nicklaus Way
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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY AND COMMISSIONER
OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
MAILED

DEC - 9 2004

EX PARTE: ELLIOTT, ET AL..

SERIAL NO.: 10/010,968

FILED: 11/15/04

TITLE: AUTOMATED IMPLANTATION SYSTEM FOR RADIOISOTOPE SEEDS

LICENSING & REVIEW

Receipt is acknowledged of the statement filed 11/10/04 under the provisions of:
X Section 152 of the Atomic Energy Act, 42 U.S.C. 2182, as amended.

 Section 305(c) of the National Aeronautics and Space Act, 42 U.S.C. 2457.

THE STATEMENT IS INSUFFICIENT SINCE:

 It is not in the form of an oath or a declaration (as provided by 37 CFR 1.68).

 It fails to set forth the "full facts" surrounding the making and conception of the invention as required by the Act. The full facts should include whether the invention was made and conceived during working hours of an employer's, or on the inventor's own time, using his/her employer's own funds, facilities, materials and services.

 In addition to setting forth the full facts concerning the circumstances under which the invention was made, a general averment in accordance with the statutory requirements was not recited setting forth the contractual relationship (if any) with either DOE and/or NASA.

X The section required the statement be executed by "applicant" and this is construed in accordance with patent statutes as meaning the person or persons who may apply for a patent. It is noted that this includes all joint inventors if the invention is joint, unless deceased, incompetent or unavailable within the meaning of 37 CFR 1.47. If a statement by someone in place of the unavailable inventor(s) is to be accepted, the same proofs, information and assignment called for by 37 CFR 1.47 (b) should be furnished, including the inventor's last known address. This has not been done.

X Other: ALL APPLICANTS MUST SIGN STATEMENT. PLEASE SUBMIT
SUPPLEMENTAL STATEMENT WITH INVENTOR HOEDEMAN'S SIGNATURE.

This application will be reached in about thirty (30) days for consideration of the need to call it to the attention of the Commissioner for the purpose of formally requesting a statement under said section, unless a supplemental statement is voluntarily filed in the meantime. Should it be necessary to issue a formal requirement for the statement, no provision is found for extension of the time limit of 30 days after the requirement is made.

Licensing and Review
Special Laws Administration Group
(703) 305-0241
12/09/04

**PLEASE DIRECT ALL COMMUNICATIONS RELATING TO THIS
MATTER TO THE ATTENTION OF LICENSING AND REVIEW**